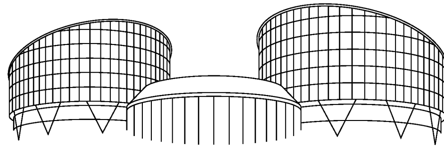

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF HOVHANNISYAN v. ARMENIA

(Application no. 18419/13)

JUDGMENT

STRASBOURG

19 July 2018

FINAL

19/10/2018

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Hovhannisyan v. Armenia,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Linos-Alexandre Sicilianos, *President,*
Kristina Pardalos,
Aleš Pejchal,
Krzysztof Wojtyczek,
Armen Harutyunyan,
Tim Eicke,
Jovan Ilievski, *judges,*
and Abel Campos, *Section Registrar,*

Having deliberated in private on 6 February and 26 June 2018,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 18419/13) against the Republic of Armenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Armenian national, Ms Aida Hovhannisyan (“the applicant”), on 6 March 2013.

2. The applicant was represented by Mr K. Mezhlumyan, a lawyer practising in Yerevan. The Armenian Government (“the Government”) were represented by their Agent, Mr G. Kostanyan, Representative of the Government of Armenia to the European Court of Human Rights.

3. The applicant alleged, in particular, that her ill-treatment in the workplace by her superiors and the refusal of the authorities to institute criminal proceedings into the matter constituted a violation of the substantive and procedural aspects of Article 3 of the Convention.

4. On 6 October 2015 the complaints concerning alleged ill-treatment and the lack of an effective investigation were communicated to the Government and the remainder of the application was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1958 and lives in Yerevan.

6. She is a civil servant working for the Ministry of Environmental Protection (hereinafter “the Ministry”) as a State inspector. She suffers from cardiac problems, including a heart rhythm disorder.

A. Background of the case

7. According to the applicant, on 10 January 2012 H.A., her head of division, and A.K., his deputy, used violence against her in H.A.’s office. In particular, they assaulted her, grabbed her hands, insulted her and forcibly took a document concerning her which she had taken in to them in order to write down her objections. As a result of the violence she fainted, sustained bodily injuries, received numerous bruises on her hands and was seriously humiliated.

8. On 12 January 2012 the applicant filed a written report with the head of staff of the Ministry, giving a detailed account of what had happened. She stated, *inter alia*, that she had returned her appraisal report for the second half of 2011 to H.A. since she had disagreed with the assessment received. On 10 January 2012 she had been informed by one of her colleagues that H.A. wanted to see her in his office. During their meeting, H.A. had given her the appraisal report and asked her why she had not signed it. She had responded that she wanted to discuss it. H.A. had refused to provide any clarifications, stating that he was the one to make decisions and would submit the report to the relevant division without her signature. H.A. had then ordered her to return the appraisal report, which she had refused to do, stating that she would write down her objections, sign the document and then return it to him. When she had been about to leave, H.A. had immediately closed and locked the door to his office and had started to approach her, shouting that she was a thief and had stolen a document from his office. Using physical violence and personal insults, he had tried to take the papers from her. After she had called for help, A.K. had entered the office and instead of diffusing the situation had also insulted her and ordered her to hand him the documents. The two of them had grabbed her hands, causing her serious pain, and forcibly taken away the papers. As a result of the stress and pain she had fainted for a short period of time, after which she had been told that she could leave as there was nothing else to discuss. She concluded by stating that as a result of the violent behaviour of H.A. and A.K. she had suffered injuries, health problems and serious distress. She requested that the relevant measures be taken in accordance with the law.

9. After the incident, the applicant felt unwell and underwent a medical examination. She was diagnosed with acute bronchitis and Wolff-Parkinson-White syndrome (a heart rhythm disorder) and was put on sick leave from 13 to 27 January 2012.

B. Investigation by the police

10. On 14 January 2012 the applicant reported the incident to the police, stating that on 10 January 2012 she and H.A., her head of division, had had an argument during which he had been violent and caused her bodily harm. She made a statement giving an account of events similar to that in her report to the head of staff of the Ministry.

11. The investigator ordered a forensic medical examination the same day to determine whether the applicant had any bodily injuries and, if so, their nature, origin, seriousness and the time and manner of their infliction.

12. On 15 January 2012 H.A. gave a statement to the police. In particular, he stated that the applicant had refused to return her appraisal report to him, after which he had left his office, closed the door and called A.K., asking him to come to see him with the other employees. During that time the applicant had kept shouting and swearing. She had called their superior to say that he had locked her in. He denied harassing the applicant either physically or verbally and said that she had used foul language.

13. On the same day A.K. made a statement and similarly denied using violence against the applicant. Between 16 and 25 January 2012 a number of the applicant's colleagues who were at work on the day of the incident were questioned and denied that H.A. and A.K. had been violent towards the applicant.

14. On 18 January 2012 the forensic medical examination was completed. The relevant parts of the expert's opinion read as follows:

> "Complaints: At present [the applicant] complains of a nervous breakdown.
>
> Results of personal examination: An irregularly shaped, non-homogenous, greenish-yellow ecchymosis measuring 6 x 2 cm is present on the mid-third of the inner right upper arm. Two similar round-shaped ecchymoses are present on the inner surface of the same area measuring 1 cm in diameter: on the mid-third of the inner left upper arm measuring 1 cm in diameter; on the lower third of the inner left upper arm measuring 2 x 1 cm and 1.5 x 1.2 cm and on the mid-third of the outer left forearm measuring 2.5 x 1.5 cm.
>
> Conclusion: [The applicant's] bodily injuries in the form of ecchymoses [around] the right and left upper arms and the left forearm have been inflicted with blunt, hard objects possibly in the period mentioned; [the injuries] taken separately as well as all together do not contain elements of [short-term] damage to health."

15. On 24 January 2012 the investigator took an additional statement from the applicant. She stated that she had no objections to the opinion of the forensic medical expert and intended to pursue her complaint.

16. On 25 January 2012 the investigator took another additional statement from the applicant. The relevant parts read as follows:

> "Question: In the course of collecting evidence H.A. and A.K. said that they did not hit you and did absolutely not grab your hands. What can you say about this?
>
> Answer: ... I do not know why H.A. and A.K. said that but it is logical that they would deny committing such acts. I will reiterate once again that H.A. and A.K. pulled and pushed me and grabbed my hands thus causing me injuries."

17. On 27 January 2012 the investigator took a further additional statement from the applicant. She stated:

> "I inform you that since the time I [went] to the police ... [H.A.] and [A.K.] have not even apologised; moreover, they have created such an atmosphere that it is impossible to work, since other employees ignore me and avoid contact with me for fear of losing their jobs. Since H.A. and A.K. are continuing this kind of behaviour, abusing their official capacity, in the circumstances I am unable to reconcile with them. I am complaining and requesting that H.A. and A.K. be prosecuted. I also wish to add that because of their actions I have had health problems and as a result have been on sick leave from 13 to 27 January ..."

18. On 28 January 2012 H.A. was questioned again and stated, *inter alia*, that the applicant had made a false statement. He had never harassed her or grabbed her hands and had remained seated in his chair until she had left. As for the injuries discovered on the applicant's body, H.A. stated that he had never touched her and did not know how they had been inflicted.

19. It appears that no decision was taken by the investigator for about a month.

20. On 24 February 2012 the applicant sent a written request to the head of the Marash Division of the Central Police Department for criminal proceedings to be brought against H.A. and A.K. She stated in her request, *inter alia*, that she had been informed of the provisions of Article 183 of the Code of Criminal Procedure, under which criminal proceedings could only be instituted on the basis of a complaint by her. She further stated that she had not reconciled with H.A. and A.K. and was calling for them to be prosecuted. On the same date the investigator took an additional statement from the applicant. A further additional statement was taken from her on 27 February 2012.

21. On 1 March 2012 the prosecutor instructed the investigator to refuse to bring criminal proceedings against H.A. and A.K. on the grounds that no crime had been committed. It was suggested that the applicant had perceived the events subjectively and that her supervisors had never used violence against her.

22. On 5 March 2012 the investigator refused to bring criminal proceedings against H.A. and A.K. for lack of *corpus delicti* in their actions. The decision stated, in particular, that the applicant had made unclear and contradictory statements with regard to the incident. It further stated that the evidence collected had revealed that on 10 January 2012 first H.A. and then

A.K., who had gone to the latter's office, had tried to calm the applicant down, as she had been insulting H.A. During the incident A.K. had caught hold of her hand and taken the document that she had taken from H.A. Intentional infliction of bodily harm was punishable under Article 118 of the Criminal Code, but negligent infliction of bodily harm was not punishable. In the case at hand the applicant's injuries had been caused by H.A. and A.K.'s negligence; it had not been established that they had intentionally caused her injuries.

23. On 13 March 2012 the applicant lodged a complaint with the prosecutor against the investigator's decision. She argued, *inter alia*, that contrary to what was stated in the decision she had described in detail how she had been treated. In particular, she had submitted that first H.A. had grabbed her hands using force, harassed her and locked her in his office so that she could not leave. Thereafter A.K. had come in and also assaulted her. The applicant complained that the conclusion in the investigator's decision, according to which H.A. and A.K. had caused her injuries by negligence, could not be substantiated and pursued the purpose of exonerating public officials from responsibility. She further complained that, as a result of deliberate violence on the part of H.A. and A.K., she had experienced severe emotional suffering as a woman since her superior had debased her and caused her serious bodily harm without good reason, right in the workplace. In addition, the applicant stated that the incident had taken place in the workplace and naturally all the witnesses questioned by the investigator were the subordinates of H.A. and A.K. If criminal proceedings were instituted, they would be questioned as witnesses and warned about criminal liability for making false statements.

24. H.A. also lodged a complaint against the investigator's decision, claiming that it had not been established that he or A.K. had ever hit the applicant.

25. On 15 March 2012 the prosecutor dismissed the applicant's complaint and allowed H.A.'s complaint. In particular, the prosecutor upheld the investigator's refusal to institute criminal proceedings but changed the grounds for it, stating that no crime had been committed involving H.A. and A.K. The decision stated that no evidence had been obtained that would establish that H.A. and A.K. had inflicted injuries on the applicant, except her own unspecified and contradictory statements. As regards the applicant, the decision stated, *inter alia*, that because the stress she had suffered as a result of the incident in H.A.'s office she had perceived and described what had happened in a subjective manner. In these circumstances, her contradictory statements did not correspond to the evidence gathered but that did not create grounds for prosecuting her for false accusations.

C. Court proceedings

26. On 4 April 2012 the applicant lodged a complaint with the Kentron and Nork-Marash District Court (hereinafter "the District Court"), requesting that criminal proceedings be instituted. She reiterated her previous arguments and complained, in particular, that the question of her injuries had not been addressed at all in the prosecutor's decision, which had ignored the results of the forensic medical examination. In the end, it had never been established who had inflicted her injuries. The applicant further complained that the prosecution had relied on the statements of subordinates of those who had committed the offence in question. Their statements could not be considered objective and reliable in view of the serious fear of those concerned losing their jobs. If criminal proceedings were instituted, they would have the procedural status of witnesses and would be warned about criminal liability for making false statements.

27. On 18 May 2012 the District Court dismissed the applicant's complaint. In doing so, it found that the disputed decision had been lawful, while the applicant's arguments stemmed from an individual and subjective interpretation of the events in question and the procedural measures undertaken in relation to them.

28. The applicant lodged an appeal against the District Court's decision. She argued, *inter alia*, that it had failed to examine her arguments. In particular, the issue of the existence of a number of injuries on her body as established by the forensic medical examination had not been addressed at all.

29. On 12 July 2012 the Criminal Court of Appeal dismissed the applicant's appeal and fully upheld the District Court's decision. In doing so, it stated that the applicant had made unclear and contradictory statements about the circumstances of the incident which had not been corroborated by other evidence, namely the statements of H.A., A.K. and others questioned in relation to the incident.

30. On 2 August 2012 the applicant lodged an appeal on points of law. She argued that the decisions of the District Court and the Criminal Court of Appeal had failed to explain the existence of injuries on her body or the fact that H.A. had locked her in his office. She also reiterated her arguments in relation to the refusal to institute criminal proceedings and the unreliability of the statements made by her colleagues.

31. On 6 September 2012 the Court of Cassation declared the applicant's appeal on points of law inadmissible for lack of merit.

II. RELEVANT DOMESTIC LAW

A. Criminal Code (in force since 1 August 2003)

32. Article 118 provides that battery or other violent acts that do not cause the consequences contemplated by Article 117 (intentional infliction of bodily harm causing short-term damage to health) are punishable by a fine of up to one hundred times the minimum wage or up to two months' detention.

33. Under Article 338 § 1, making false statements in criminal proceedings is punishable by a fine of between one and three hundred times the minimum wage, up to two months' detention or up to two years' imprisonment.

34. Under Article 339, refusing to make a statement is punishable by a fine of between fifty and one hundred times the minimum wage or up to two months' detention.

B. Code of Criminal Procedure (in force since 12 January 1999)

35. Article 180 § 1 provides that reports on crimes must be examined and decided upon without delay and within a period of ten days in cases where it is necessary to check whether there are lawful and sufficient grounds to institute proceedings (*հետաքննություն*, hereinafter "inquiry"). Within that period the authorities may take certain measures, such as request explanations and order forensic examinations (Article 180 § 2).

36. According to Article 182, a prosecutor, an investigator, or an investigating body can decide to initiate criminal prosecution if there are reasons and grounds to do so (*նախաքննություն*, hereinafter "investigation"). Under Article 183 § 1, criminal proceedings in relation to cases provided for by, *inter alia*, Article 118 of the Criminal Code may only be instituted on the basis of a complaint by the victim and are subject to termination if he or she reconciles with the suspect or the accused.

37. Under Article 206 § 4, before questioning the investigator verifies the identity of the witness, states in relation to which criminal case he or she has been summoned and warns him or her about the obligation to state everything to his or her knowledge in relation to the case, as well as about criminal liability for making false statements and for refusing to make or avoiding making a statement.

C. Civil Service Act (adopted on 4 December 2001)

38. According to section 32 of the Act,

> "1. In the event of ... abuse of authority, breach of internal disciplinary rules ... the following disciplinary penalties may be applied in respect of a civil servant:
>
> a) warning;
>
> b) reprimand;
>
> c) strict reprimand;
>
> d) salary reduction ... ;
>
> e) dismissal ... ;
>
> f) lowering of civil service higher rank ...
>
> 2. Prior to the application of a disciplinary penalty, the competent official shall require the civil servant who has committed the disciplinary breach to provide a written explanation.
>
> ...
>
> 4. In cases and procedure provided by the Civil Service Council, the disciplinary penalties set out in the first paragraph of this section are applied after an internal investigation has been conducted.
>
> ..."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

39. The applicant complained under Article 3 of the Convention that she had been deliberately ill-treated in the workplace by her superiors, who were public servants, and that the authorities had failed to carry out an effective investigation into the matter.

40. Article 3 of the Convention reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

41. The Government contested that argument.

A. Admissibility

42. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

43. The applicant argued that H.A. and A.K. had intentionally inflicted harm on her. As a result of their violence she had sustained bodily injuries, received multiple bruises, and lost consciousness. She had been unable to work for fourteen days. Her bodily injuries had been confirmed by the expert report of 18 January 2012. Since no criminal proceedings had been initiated, no proper investigation had been conducted and no one had been questioned. Some witnesses had given explanations during the inquiry but they could not be considered as sworn statements since they had not been given under oath. The eyewitnesses would more likely have given true statements had they been questioned under oath.

(b) The Government

44. As to the substantive aspect of Article 3, the Government pointed out that the circumstances of the current case had not included any elements of torture and that any interpretation of the facts as implying torture was clearly exaggerated and misconstrued. Nor had there been any intention or motive on the part of the applicant's superiors to ill-treat her. Their only intention had been to solve, in a civilised manner, a conflict between colleagues over a performance review. The argument between the applicant and her supervisor had not caused any actual bodily injury or intense physical or mental suffering, had not raised any objective feelings of fear or inferiority, and could not be said to have humiliated or debased the applicant.

45. There was nothing in the case file to support the applicant's allegations of ill-treatment. All the material in the present case actually suggested the opposite: H.A. and A.K. had only been trying to calm the applicant down, as she had been shouting and using very inappropriate language. After a thorough, objective and comprehensive inquiry, her accusations towards H.A. and A.K. had been found to be contradictory and unfounded and by no means credible. She had not reported the matter to the police until four days later. Furthermore, she had described the events in a contradictory manner and had failed to provide any psychological, medical or other expert evidence that could substantiate the alleged physical and mental impact on her. It could not be established "beyond reasonable doubt" that her injuries had been caused by her superiors. There was no evidence that the health-related issues she had allegedly been suffering from related to the impugned events since she had not undergone a medical examination until five days after the incident. The injuries had thus not been sufficiently serious to reach the threshold for Article 3 of the Convention to apply.

46. Concerning the procedural aspect of Article 3, the Government maintained that Armenian law contained all the mechanisms and investigation procedures required in order to have perpetrators of ill-treatment adequately punished. In the present case, the authorities had carried out an effective investigation, which had led to the conclusion that no crime had been committed during the incident in question. The investigation had been thorough, prompt and independent, and the involvement of the applicant in the process had been adequately ensured. All the necessary investigative measures had been taken by the investigative authorities but none of the witness statements had confirmed the applicant's allegations. The investigative authorities' refusal to initiate criminal proceedings had been upheld by the domestic courts at three levels of jurisdiction. The inquiry had started on the very day when the applicant had reported the matter to the police. The results of medical examinations had been taken into account and relied on together with all the other evidentiary material. The inquiry had been completely independent and the applicant had been fully involved in it.

47. There had thus been no violation of the substantive or procedural aspect of Article 3 of the Convention.

2. *The Court's assessment*

(a) General principles

48. The Court reiterates at the outset that ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is relative: it depends on all the circumstances of the case, such as the nature and context of the treatment, its duration, its physical and mental effects and, in some instances, the sex, age and state of health of the victim (see, for example, *Bouyid v. Belgium* [GC], no. 23380/09, § 86, ECHR 2015; *M. and M. v. Croatia*, no. 10161/13, § 131, 3 September 2015); and D.M.D. v. Romania, no. 23022/13, § 40, 3 October 2017.

49. Treatment has been held by the Court to be 'degrading – and thus to fall within the scope of the prohibition set out in Article 3 of the Convention – if it causes in its victim feelings of fear, anguish and inferiority (see, for example, *Ireland v. the United Kingdom*, 18 January 1978, § 167, Series A no. 25, and *Stanev v. Bulgaria* [GC], no. 36760/06, § 203, ECHR 2012), if it humiliates or debases an individual (humiliation in the victim's own eyes, see *Raninen v. Finland*, 16 December 1997, § 32, *Reports of Judgments and Decisions* 1997-VIII, and/or in other people's eyes, see *Gutsanovi v. Bulgaria*, no. 34529/10, § 136, ECHR 2013 (extracts)), whether or not that was the aim (see *Labita v. Italy* [GC], no. 26772/95, § 120, ECHR 2000-IV), if it breaks the person's physical or moral resistance or drives him or her to act against his or her will or conscience (see *Jalloh v. Germany*

[GC], no. 54810/00, § 68, ECHR 2006-IX), or if it shows a lack of respect for, or diminishes, human dignity (see *Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/08 and 43441/08, §§ 118 and 138, 17 July 2014).

50. The Court further reiterates that where an individual raises an arguable claim that he or she has been seriously ill-treated by the police or other agents of the State in breach of Article 3, that provision requires by implication that there should be an effective official investigation. The obligation to carry out an effective investigation into allegations of treatment infringing Article 3 suffered at the hands of State agents is well established in the Court's case-law (see *Bouyid,* cited above, §§ 114-123), and for the most recent authority, *Jeronovičs v. Latvia* [GC], no. 44898/10, § 103, ECHR 2016).

51. In order to be "effective", such an investigation, as with one under Article 2, must firstly be adequate (see *Ramsahai and Others v. the Netherlands* [GC], no. 52391/99, § 324, ECHR 2007-II, and *Mustafa Tunç and Fecire Tunç v. Turkey* [GC], no. 24014/05, § 172, 14 April 2015). This means that it must be capable of leading to the establishment of the facts and to a determination of whether the force used was or was not justified in the circumstances and of identifying and – if appropriate – punishing those responsible (see, *inter alia*, *Giuliani and Gaggio v. Italy* [GC], no. 23458/02, § 301, ECHR 2011 (extracts); *Mustafa Tunç and Fecire Tunç*, cited above, § 172; *Jeronovičs,* cited above, § 107; and *Armani Da Silva v. the United Kingdom* [GC], no. 5878/08, § 233, ECHR 2016). An obligation to investigate "is not an obligation of result, but of means": not every investigation necessarily has to be successful or come to a conclusion which coincides with the claimant's account of events (see *D.M.D.,* cited above, § 40).

52. The investigation of serious allegations of ill-treatment must also be thorough. That means that the authorities must always make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigation or as the basis of their decisions. They must take all reasonable steps available to them to secure the evidence concerning the incident, including eyewitness testimony, forensic evidence, and so on. Any deficiency in the investigation which undermines its ability to establish the cause of injuries or the identity of the persons responsible will risk falling foul of this standard (see *Mikheyev v. Russia*, no. 77617/01, § 108, 26 January 2006, and *Virabyan v. Armenia*, no. 40094/05, § 162, 2 October 2012).

53. Allegations of ill-treatment contrary to Article 3 must be supported by appropriate evidence. To assess this evidence, the Court adopts the standard of proof "beyond reasonable doubt" but adds that such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see, among other authorities, *Ireland v. the United Kingdom*, cited above, § 161 *in fine*;

Labita, cited above, § 121; *Jalloh*, cited above, § 67; and *Bouyid*, cited above, § 82).

(b) Application of the above principles in the present case

54. In the present case the applicant claimed that the behaviour of her superiors at the workplace resulted in her having sustained bodily injuries, that is, numerous bruises on her hands, and that she was seriously humiliated. In the Court's case-law, humiliating or debasing treatment of an individual – either in the victim's own eyes and/or in other people's eyes – constitutes degrading treatment (see paragraph 49 above). The applicant has thus made an arguable claim about ill-treatment which attains the minimum level of severity under Article 3.

55. The Court notes that the applicant complains of ill-treatment by her superiors, who were civil servants at the Ministry. Irrespective of whether treatment contrary to Article 3 has been inflicted through the involvement of State agents or by private individuals, the requirements as to an official investigation are similar (see *V.K. v. Russia*, no. 68059/13, § 185, 7 March 2017). The Court will therefore examine whether the respondent State, in dealing with the applicant's case, was in breach of its positive obligations under Article 3 of the Convention.

(i) Procedural aspect of Article 3 of the Convention

56. The Court notes that on 14 January 2012 the applicant reported the incident to the police. On the same day the investigator ordered a forensic medical examination, which was concluded on 18 January 2012. Several explanations were given by the applicant, the alleged perpetrators H.A. and A.K., and some of the applicant's colleagues from the Ministry. However, no investigation (*նախաքննություն*) was ever initiated in the matter, nor was any internal investigation conducted within the Ministry (see paragraph 38 above).

57. In the present case the forensic medical examination confirmed that the applicant had sustained bruises on different parts of her arm. However, all her colleagues, who gave explanations and who were subordinates of the alleged perpetrators, denied the account of events given by the applicant. On the basis of these explanations, the investigator refused to institute criminal proceedings. The applicant contested the investigator's decision by lodging a complaint with the prosecutor. She also lodged a complaint with the District Court, requesting that criminal proceedings be instituted. Neither of these attempts at proceedings was successful. Although the medical examination showed that the applicant had sustained injuries, no explanation was ever provided by the investigator – or the domestic courts – for these injuries.

58. Since the applicant raised before the competent domestic authorities an arguable claim that she was ill-treated, there should have been an

independent and effective investigation conducted in the case, capable of leading to the establishment of the facts and, if the allegations proved to be true, to the identification and possible punishment of those responsible. However, in the present case, no investigation was ever launched, nor was any internal investigation conducted within the Ministry. During the inquiry, the domestic authorities did not make any serious attempts to find out what had happened. No steps were taken, for example, to take evidence from the applicant's colleagues under oath in order to avoid any possible problems created by the fact that they were subordinates of the alleged perpetrators. It was not established how the applicant's injuries were inflicted, in which circumstances and whether they were related to the impugned incident. Furthermore, no efforts were made to clarify certain contradictions in H.A.'s statements (see paragraphs 12 and 18 above) or to investigate whether his statements were accurate. Nor were any steps taken by the head of staff of the Ministry (see paragraph 8 above) or other administrative authorities prior to 14 January 2012 when the applicant reported the matter to the police.

59. Having regard to the above-mentioned deficiencies, the Court concludes that the State authorities failed to conduct a proper investigation into the applicant's allegations of ill-treatment. Thus, there has been a violation of Article 3 of the Convention under its procedural head.

(ii) Substantive aspect of Article 3 of the Convention

60. Owing to the lack of an effective investigation, the evidence before the Court does not enable it to find beyond all reasonable doubt that the applicant was subjected to treatment contrary to Article 3. The Court therefore considers that there is insufficient evidence for it to conclude that there has been a violation of Article 3 of the Convention under its substantive head.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

61. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

62. The applicant claimed 7,000 euros (EUR) in respect of non-pecuniary damage.

63. The Government considered the claim excessive and unsubstantiated. The applicant had failed to show a causal link with the

incident. The claim was thus hypothetical and should be rejected. In any event, if the Court decided to award compensation in respect of non-pecuniary damage, the amount should be less than that claimed.

64. The Court awards the applicant EUR 3,000 in respect of non-pecuniary damage.

B. Costs and expenses

65. The applicant also claimed EUR 3,510 for the costs and expenses incurred before the Court.

66. The Government considered the amount claimed excessive. Moreover, the applicant had failed to provide any information on the actual work performed, the number of hours worked or the hourly rate. Furthermore, no details been given on the translation costs claimed or their relevance to the present case. The costs of correspondence had not been supported by any documentary evidence.

67. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court rejects the claim for costs and expenses incurred in the proceedings before the Court for the lack of adequate supporting documentation.

C. Default interest

68. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 3 of the Convention on account of the failure to carry out an adequate and effective investigation into the allegation of ill-treatment;

3. *Holds* that there has been no violation of Article 3 of the Convention under its substantive head;

4. *Holds*

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 19 July 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Abel Campos	Linos-Alexandre Sicilianos
Registrar	President